

and to lay that motion on the table. Adopted by the following vote :

NAYS—20.

Buchanan of Wood,	Hightower,	Martin of Navarro,
Burton,	Homan,	Moore,
Cooper,	Houston,	Rainey,
Davenport,	Lair,	Ross,
Gooch,	Lane,	Weatherred,
Harris,	Lightfoot,	Wynne.
Henderson,	Martin of Cooke,	

NAYS—5.

Patton,	Stubbs,	Terrell.
Powers,	Swain,	

NOT VOTING.

Duncan.

Senators Terrell, Homan and Swain gave notice that they would enter their reasons for their votes on the passage etc., of House bill No. 566 (the deficiency bill.)

On motion of Senator Martin of Cooke, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, March 19, 1881. }

Senate met pursuant to adjournment; President pro tem. in the chair.

Roll called; quorum present.

Prayer by the Chaplain.

On motion of Senator Buchanan of Wood, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 19, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate substitute for House bill No. 566, "An act making appropriations for deficiencies, beginning March 1, 1879, and ending February 28, 1881, and for previous years," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Lair, chairman of Committee on Private Land Claims, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Private Land Claims, to whom was referred the memorial of the heirs of Anson Jones, deceased, have had the same under consideration, and have heard the testimony offered in support thereof. It appears from the evidence that on the twenty-ninth of August, 1845, a letter patent was issued by the Republic of Texas, to John Elkins, for twenty-six labors of land, then in Milam but now in Lampasas county. That afterwards said Elkins, in pursuance of a prior agreement, conveyed to Anson Jones, by deed, one half of said twenty-six labors by specified metes and bounds. It was satisfactorily shown to your committee that this deed once existed, and had been recorded in Milam county, and that the records of that county, and of Lampasas county, have been destroyed by fires, which consumed the court houses of said counties, and the failure of the claimants to produce the original deed was satisfactorily accounted for, said deed having been lost; but it was fully and clearly proven by the testimony of Judge A. S. Walker and Maj. John A. Green, who appeared before your committee, that said deed once existed, and that it conveyed from John Elkins to Anson Jones one half of said grant by specified metes and bounds. It further appears that the survey of twenty-six labors was afterwards run out by a competent and reliable surveyor, under an order of survey made by the District Court of Lampasas county, in a suit by the legal representative of Anson Jones, then deceased, against certain persons claiming the half which had been conveyed to Anson Jones, and that it was found to contain only thirteen labors of land, or something less, and that said thirteen labors were those retained by Elkins, and that the half which had been embraced in the conveyance from Elkins to Anson Jones, had never in fact been located, but was wholly lost to the heirs of said Jones, and that to that extent the certificate issued to Elkins remains unlocated.

It is also shown that notice of the intention to apply for the passage of a special law authorizing the issuance to the petitioners of a certificate for said unlocated balance, has been given as required by law.

I am instructed by the committee to report said memorial back to the Senate with the recommendation that it be granted; and also to report the accompanying bill, granting the relief asked, with the recommendation that it do pass.

LAIR, Chairman.

Bill read first time.

Senator Buchanan of Wood introduced a bill entitled "An act to amend article 168 of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Lightfoot introduced a bill entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed March 17, 1879, by adding thereto article 1215a." Referred to Judiciary Committee No. 1.

Senator Hightower introduced a bill entitled "An act to amend sections 1 and 2, of chapter 35, of an act passed at the special session, A. D. 1879, of the Sixteenth Legislature of Texas, approved July 9, 1879, relating to the auditing of claims against the State by the Comptroller of Public Accounts." Referred to Committee on Finance.

Senator Wynne introduced a bill entitled "An act to amend article 3466, title 69, chapter 1, of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Stubbs moved to call up his motion to reconsider the vote adopting the report of the free conference committee on the differences between the two houses on House bill No. 482, "An act to amend articles 4662 and 4664 of chapter 1, title 95, of the Revised Civil Statutes, adopted February 28, 1879."

Senator Homan moved to table the motion to reconsider, and moved a call of the Senate on the motion to table. Call sustained.

Roll called. Absent, Senators Burges and Martin of Cooke.

Senator Homan moved to excuse the absent Senators, who were reported sick.

Senator Houston moved to suspend the call. Withdrawn, and Senator Homan's motion to excuse the absent Senators was adopted by the following vote:

YEAS—25.

Buchanan of Grimes	Hightower,	Powers,
Buchanan of Wood,	Homan,	Rainey,
Burton,	Houston,	Ross,
Cooper,	Lair,	Stubbs,
Davenport,	Lane,	Swain,
Duncan,	Lightfoot,	Terrell,
Gooch,	Martin of Navarro,	Weatherred,
Harris,	Patton,	Wynne.
Henderson,		

NAYS—none.

The motion to table was lost by the following vote:

YEAS—12.

Buchanan of Wood,	Henderson,	Martin of Navarro,
Davenport,	Hightower,	Patton,
Gooch,	Homan,	Powers,
Harris,	Lane,	Weatherred.

NAYS—13.

Buchanan of Grimes	Lair,	Stewart,
Burton,	Lightfoot,	Swain,
Cooper,	Rainey,	Terrell,
Duncan,	Ross,	Wynne.
Houston,		

(Senator Buchanan of Wood in the chair.)

Senator Stubbs moved to postpone the motion to reconsider for half an hour, and offered a resolution requesting the House to return House bill No. 482.

Senator Homan raised the point of order that the resolution was out of order pending the motion to reconsider the bill asked to be returned. Sustained.

Senator Stubbs withdrew his motion to postpone and moved a call of the Senate on the pending motion. Call sustained.

Roll called; Senate full.

(President pro tem. in the chair.)

The motion to reconsider was lost by the following vote:

YEAS—4.		
Duncan, Houston,	Stubbs,	Terrell.
NAYS—22.		
Buchanan of Grimes Buchanan of Wood, Burton, Cooper, Davenport, Gooch, Harris, Henderson,	Hightower, Homan, Lair, Lane, Lightfoot, Martin of Cooke, Martin of Navarro,	Patton, Powers, Rainey, Ross, Swain, Weatherred, Wynne.

Senator Homan, by leave, presented a petition of county officers, attorneys, physicians and other qualified voters of Wilson county, asking a constitutional amendment prohibiting the manufacture or sale of intoxicating liquors in this State. Referred to Committee on Constitutional Amendments.

On motion of Senator Buchanan of Wood, the Senate went into executive session.

IN SENATE.

Senator Homan moved that the results of the executive session be entered upon the journal, and that the Governor be notified of the same, to-wit:

That the Senate advises and consents to the appointment of T. J. Goree as Superintendent of the Penitentiary; also, to the appointment of notaries public made in the message received on yesterday; the names of said appointees to be printed with the corrected list now in course of preparation.

The President pro tem., after reading its caption, signed House bill No. 486, "An act to diminish the civil jurisdiction of the County Courts of Bosque county and others in this State, and conform the jurisdiction of the district courts of said counties to such change."

On motion of Senator Martin of Navarro, Senate bill No. 276, "An act to amend chapter 2, title 21, of the Revised Civil Statutes, by adding thereto article 1514a, so as to define what paupers shall be buried at public expense," was called up by unanimous consent and read second time.

Senator Martin of Navarro offered the following amendment:

The prospect of an early adjournment creates a necessity for the suspension of the rule requiring this bill to be read on three several days, and it is suspended; and the public good to arise from its passage creates an emergency that this act take effect from its passage, and it is so enacted.

Adopted, and bill ordered engrossed.

On motion of Senator Martin of Navarro, the rules were suspended to place the bill on its third reading by the following vote:

YEAS—24.		
Buchanan of Grimes Buchanan of Wood, Burton, Cooper, Davenport, Harris, Henderson, Hightower,	Homan, Houston, Lair, Lane, Lightfoot, Martin of Cooke, Martin of Navarro, Patton,	Powers, Rainey, Ross, Swain, Terrell, Weatherred, Wynne, Mr. President.

NAYS—none.

NOT VOTING—2.

Duncan, Stubbs.

Bill read third time, and passed by the following vote:

YEAS—24.		
Buchanan of Grimes, Buchanan of Wood, sig. 33.	Homan, Houston,	Powers, Rainey,

Burton, Cooper, Davenport, Harris, Henderson, Hightower,	Lair, Lane, Lightfoot, Martin of Cooke, Martin of Navarro, Patton,	Ross, Swain, Terrell, Weatherred, Wynne, Mr. President.
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NAYS—none.

NOT VOTING—2.

Duncan, Stubbs.

On motion of Senator Lane, Senate bill No. 244, "An act to authorize J. S. Meniffee to sell certain realty in Texana and invest the proceeds in a public building," was taken up by unanimous consent, read second time and ordered engrossed.

On motion of Senator Lane, rules were suspended to place the bill on its third reading by the following vote:

YEAS—22.		
Buchanan of Grimes Buchanan of Wood, Burton, Cooper, Davenport, Duncan, Harris, Henderson,	Hightower, Homan, Houston, Lair, Lane, Lightfoot, Martin of Navarro,	Powers, Rainey, Ross, Swain, Weatherred, Wynne, Mr. President.

NAYS—none.

NOT VOTING—3.

Patton, Stubbs, Terrell.

Bill read third time and passed.

On motion of Senator Henderson, Senate bill No. 281, "An act to authorize the issuance of a certificate to the heirs of Anson Jones, deceased, for thirteen labors of land," was taken up by unanimous consent.

On motion of Senator Lair, rules were suspended to place the bill on its second reading by the following vote:

YEAS—23.		
Buchanan of Grimes Buchanan of Wood, Burton, Cooper, Davenport, Duncan, Harris, Henderson,	Hightower, Homan, Houston, Lair, Lane, Lightfoot, Martin of Navarro, Patton,	Powers, Rainey, Ross, Swain, Weatherred, Wynne, Mr. President.

NAYS—none.

NOT VOTING—2.

Stubbs, Terrell.

Bill read second time, and the Senate refused to engross it.

The following messages were received from his Excellency, the Governor:

THE STATE OF TEXAS, EXECUTIVE OFFICE,
AUSTIN, March 19, 1881.

To the Honorable Senate of the State of Texas:

By way of correcting the list for notaries public sent to your honorable, for Smith county, I wish it changed so that A. A. Copeland will be a new appointment, and I send the name of Martin Jernigan to succeed himself.

Respectfully submitted,
O. M. ROBERTS, Governor.

EXECUTIVE OFFICE,
AUSTIN, March 19, 1881.

To the Honorable Senate and House of Representatives, in Legislature assembled:

I herewith, respectfully submit a communication from the Honorable W. M. Brown, Comptroller, in regard to the probable omission, relating to medicated bitters, in the act of this session, providing for a tax upon spirituous, vinous and malt liquors, approved March 11, 1881.

I respectfully recommend an amendment of the law therein requested, so that there may be no doubt whatever about medicated bitters being taxed as other spirituous liquors.

Respectfully submitted,
O. M. Roberts, Governor.

COMPTROLLER'S OFFICE,
AUSTIN, March 18, 1881.

His Excellency, O. M. Roberts, Governor State of Texas:

I have the honor to call your attention to the provisions of section

1, of an act of the present session of the Legislature, approved March 11, 1881; as follows:

"Section 1. *Be it enacted by the Legislature of the State of Texas*, That hereafter there shall be levied upon and collected from any person, firm or association of persons, engaged or engaging in the business of selling spirituous, vinous or malt liquors, or medicated bitters, an annual tax upon every such occupation or separate establishment, as follows: For selling spirituous, vinous or malt liquors in quantities less than a quart, three hundred dollars; for selling such liquors or medicated bitters in quantities of one quart and less than five gallons, two hundred dollars; for selling such liquors in quantities of five gallons or more, three hundred dollars; for selling malt liquors exclusively, an annual tax of fifty dollars. *Provided*, that nothing in this section shall be so construed as to prevent wholesale liquor dealers or merchants, who pay occupation tax as such, from selling unbroken packages, containing less than five gallons, without being required to pay an additional tax, as quart dealers."

It is at least doubtful whether an occupation tax is required by the terms of the above section from parties selling medicated bitters in quantities less than one quart, or in quantities of five gallons, or more, while it is regarded as certain that the Legislature intended to tax retailers and wholesale dealers in such bitters, etc., as contain alcohol as a constituent.

It will be noticed that an occupation tax is required from dealers in medicated bitters selling in quantities of one quart, and not exceeding five gallons.

The principal sales of medicated bitters are by retail dealers in quantities less than a quart, and it is important that no doubtful terms should be employed in the law, which will give rise to discussions and will require judicial construction, besides furnishing grounds for evasions.

It is respectfully suggested that further legislation making certain the legislative intent is desirable.

Respectfully,
W. M. BROWN, Comptroller.

Referred to Committee on Finance.

Senator Buchanan of Wood moved that the Senate go into executive session, on the appointments in the Governor's message just read, on Monday morning at 11:30 A. M. Adopted.

Senator Terrell, chairman of Judiciary Committee No. 1, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 19, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 277, entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes,' passed on the seventeenth day of March, A. D. 1879," having for its purpose to require all civil suits to which the State of Texas may be a party to be brought in the district court of the county in which the seat of government may be, have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do not pass.

TERRELL, Chairman.

Bill read first time.

On motion of Senator Buchanan of Wood, House bill No. 559, "An act to define the time for holding the District Court of Kaufman county," was taken up by unanimous consent, amendment of Senator Lightfoot pending. Amendment adopted.

Senator Lightfoot offered the following amendment: Amend section 1 by inserting between the words "weeks" and "provided," in line 9, the following words:

In the county of Hunt, on the fourth Mondays after the first Mondays in June and December, and may continue in session five weeks.

In the county of Delta, on the ninth Mondays after the first Mondays in June and December, and may continue in session three weeks.

In the county of Hopkins, on the twelfth Mondays after the first Mondays in June and December, and may continue in session five weeks.

In the county of Rains, on the seventeenth Mondays after the first Mondays in June and December, and may continue in session two weeks.

In the county of Rockwall, on the nineteenth Mondays after the first Mondays in June and December, and may continue in session until the business is disposed of.

Adopted.

Amend, after the word "provided," in line 9, of section

1, by striking out the word "court" wherever it appears, and inserting in lieu thereof the word "courts." Adopted, and bill passed to third reading.

On motion of Senator Cooper, Senate bill No. 258, "An act granting to persons who have been permanently disabled, by reason of wounds received while in the service of this State or of the Confederate States, a land certificate of 1280 acres of land," was taken up by unanimous consent and read second time.

Senator Cooper offered the following amendment: Amend by adding in line 19, after the word "States," to-wit, "in the late war between the States of the United States;" and in line 22, after the word "received," to-wit, "in actual service;" and in line 23, after the word "disabled," insert "so as seriously to impair their ability to perform bodily labor or earn a living for their family." Adopted.

Also, the following:

The rapid diminution of the public domain, and the indigent circumstances of many who will be benefitted by the passage of this bill, creates an imperative public necessity and emergency that the rule requiring this bill to be read on three several days be suspended, and that this bill go into effect and be in force from and after its passage; and it is so enacted.

Adopted.

Senator Houston moved to postpone the bill half an hour to give its friends time to perfect it, and to take up House bill No. 309, "An act to amend sections 1, 2, 3, 4, 6, 7 and 8 of an act entitled 'an act to provide for the sale of alternate sections of lands in unorganized counties, as surveyed by railroad companies and other works of internal improvement, and set apart for the benefit of the school fund, to provide for the investment of the proceeds, and to repeal all laws in conflict therewith, approved July 8, 1879,' and to provide for the sale of such lands in unorganized counties." Adopted, and bill taken up with adverse report of committee, read second time, and, on motion of Senator Martin of Cooke, the committee report was rejected.

Senator Houston offered the following as a substitute:

Substitute for House bill No. 309, "An act to provide for the sale of the alternate sections of lands in this State surveyed by railroad companies and other works of internal improvement, and set apart for common school fund, and of the university and asylum lands, and to provide for the investment of the proceeds."

Substitute adopted and bill passed to third reading.

Senator Lane moved to reconsider the vote just taken. Adopted and vote reconsidered.

Senator Martin of Cooke offered the following amendment:

The near approach of the close of the present session creates an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is so suspended; and an emergency that this act take effect from and after its passage; and it is so enacted.

On motion of Senator Powers, the pending business was suspended for five minutes, to give him an opportunity to enter a motion to reconsider the vote by which the Senate refused to engross Senate bill No. 281, relating to the claim of Anson Jones. Adopted, and motion so entered.

Pending business was resumed and the amendment of Senator Martin of Cooke was adopted, and bill passed to third reading.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS—23.

Buchanan of Wood,	Houston,	Rainey,
Burton,	Lair,	Ross,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Swain,
Gooch,	Martin of Cooke,	Terrell,
Harris,	Martin of Navarro,	Weatherred,
Henderson,	Patton,	Wynne,
Homan,	Powers,	

NAYS—none.

NOT VOTING—8.

Buchanan of Grimes, Duncan, Hightower.
Bill read third time and passed by the following vote:

YEAS—24.

Buchanan of Grimes,	Houston,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Burton,	Lane,	Stubbs,
Cooper,	Lightfoot,	Swain,
Davenport,	Martin of Cooke,	Terrell,
Harris,	Martin of Navarro,	Weatherred,
Henderson,	Patton,	Wynne,
Homan,	Powers,	Mr. President.

NAYS—none.

NOT VOTING—2.

Duncan, Hightower.

House bill No. 519, "An act to provide for the cancellation of sales of lands situated in unorganized counties, in cases where sales have been made in error by the Comptroller, and for the relief of purchasers thereof," was taken up, the pending question being the reconsideration of the vote by which the Senate indefinitely postponed the same.

On motion of Senator Lane, the motion to reconsider was postponed till Monday next.

House bill No. 91, entitled "An act to authorize the refunding of moneys paid into the General Land Office, under the provisions of 'an act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve,' passed August 26, 1856, and the provisions of a supplemental act, entitled 'an act supplemental to an act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve,' approved November 28, 1857, in all cases wherein the State failed to patent the lands for which such moneys were paid, and to make an appropriation therefor," was taken up, read third time and passed by the following vote:

YEAS—23.

Buchanan of Grimes,	Houston,	Ross,
Buchanan of Wood,	Lair,	Stubbs,
Burton,	Lane,	Swain,
Cooper,	Lightfoot,	Terrell,
Harris,	Martin of Navarro,	Weatherred,
Henderson,	Patton,	Wynne,
Hightower,	Powers,	Mr. President.
Homan,	Rainey,	

NAYS—2.

Davenport, Martin of Cooke.

NOT VOTING.

Duncan.

Senate bill No. 115, entitled "An act to amend article 2799 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed March 17, 1879," was taken up and read third time.

The time for which Senate bill No. 258 had been postponed having expired, the pending bill went to the table, and the consideration of said Senate bill No. 258, was resumed.

Senator Cooper offered the following amendment:

Section 4. No person shall be entitled to the benefits of this act who has sufficient property for the support and maintenance of himself and family.

Adopted.

Senator Burton offered the following: Add after the word "States" in line 9, of first section, the following: "or as servants attending such soldiers." Adopted, and bill ordered engrossed by the following vote:

YEAS—23.

Buchanan of Wood,	Harris,	Houston,
Burton,	Lair,	Lair,
Cooper,	Henderson,	Lane,
Davenport,	Hightower,	Lightfoot,
	Homan,	

Martin of Navarro,
Patton,
Powers,
Rainey,

Ross,
Stubbs,
Swain,
Terrell,

Weatherred,
Wynne,
Mr. President.

NAYS.

Martin of Cooke.

NOT VOTING—2.

Buchanan of Grimes, Duncan.

Senator Cooper moved to suspend the rules and put the bill on its third reading. Carried by the following vote:

YEAS—23.

Buchanan of Wood,	Houston,	Ross,
Burton,	Lair,	Stubbs,
Cooper,	Lane,	Swain,
Davenport,	Lightfoot,	Terrell,
Harris,	Martin of Navarro,	Weatherred,
Henderson,	Patton,	Wynne,
Hightower,	Powers,	Mr. President.
Homan,	Rainey,	

NAYS—none.

NOT VOTING—2.

Buchanan of Grimes, Duncan.

Bill read third time and passed by the following vote:

YEAS—22.

Buchanan of Wood,	Houston,	Rainey,
Burton,	Lair,	Ross,
Cooper,	Lane,	Stubbs,
Davenport,	Lightfoot,	Swain,
Harris,	Martin of Navarro,	Weatherred,
Henderson,	Patton,	Wynne,
Hightower,	Powers,	Mr. President.
Homan,		

NAYS.

Martin of Cooke.

NOT VOTING—3.

Buchanan of Grimes, Duncan, Terrell.

Senator Stubbs, for the Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 19, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 270, "An act to amend chapter 2, title 21, of the Revised Civil Statutes, by adding thereto article 1514a, so as to define what paupers shall be buried at public expense," and find the same correctly engrossed.

STUBBS, for committee.

The consideration of Senate bill No. 115 was resumed.

Senator Houston moved the previous question on the pending bill. Motion seconded, the main question ordered and bill passed by the following vote:

YEAS—16.

Cooper,	Lightfoot,	Stubbs,
Davenport,	Patton,	Swain,
Harris,	Powers,	Weatherred,
Hightower,	Rainey,	Wynne,
Houston,	Ross,	Mr. President,
Lane,		

NAYS—9.

Buchanan of Grimes,	Henderson,	Martin of Cooke,
Buchanan of Wood,	Homan,	Martin of Navarro,
Burton,	Lair,	Terrell.

NOT VOTING.

Duncan.

On motion of Senator Buchanan of Wood, the Senate adjourned until 9:30 A. M. on Monday next.

FIFTY-NINTH DAY.

SENATE CHAMBER, }
AUSTIN, March 21, 1881. }

Senate met pursuant to adjournment; the President in the chair.

Roll called; quorum present.